IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: PHILIPS RECALLED CPAP, : Master Docket: Misc. No. 21-mc-1230-JFC

BI-LEVEL PAP, AND MECHANICAL:

VENTILATOR PRODUCTS : MDL No. 3014

LITIGATION

: AMENDED SHORT FORM

This Document Relates to: : COMPLAINT FOR PERSONAL

Michael Tobin : INJURIES, DAMAGES, AND DEMAND

2:21-cv-01503 FOR JURY TRIAL

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the "Master Long Form Complaint"). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff(s) further allege(s) as follows:

I. **DEFENDANTS**

1. Plaintiff(s) name(s) the following Defendants in this action:

✓ Koninklijke Philips N.V.

✓ Philips North America LLC.

Philips RS North America LLC.

		✓ Philips Holding USA Inc.
		✓ Philips RS North America Holding Corporation.
		✓ Polymer Technologies, Inc.
		Polymer Molded Products LLC.
II.	PLAI	NTIFF(S)
	2.	Name of Plaintiff(s): Michael Tobin
	3.	Name of spouse of Plaintiff (if loss of consortium claim is being made): Araceli Tobin
	4.	Name and capacity (i.e., executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:
	5.	State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death): La Vernia, Texas, Wilson County
III.		GNATED FORUM Identify the forum (United States District Court and Division) in which the Plaintiff
	6.	Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing: United States District Court, Western District of Texas, San Antonio Division.

IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

E30 (Emergency Use Authorization)	Dorma 500
DreamStation ASV	REMstar SE Auto
DreamStation ST, AVAPS	Trilogy 100
SystemOne ASV4	Trilogy 200
C-Series ASV	Garbin Plus, Aeris, LifeVent
C-Series S/T and AVAPS	A-Series BiPAP Hybrid A30 (not marketed
OmniLab Advanced +	in U.S.)
SystemOne (Q-Series)	A-Series BiPAP V30 Auto
✓ DreamStation	A-Series BiPAP A40
DreamStation Go	A-Series BiPAP A30
Dorma 400	Other Philips Respironics Device; if other,
	identify the model:
V. INJURIES	
	physical injuries as a result of using a Recalled ant symptoms and consequences associated
COPD (new or worsening)	
✓ Asthma (new or worsening)
Pulmonary Fibrosis	
Other Pulmonary Damage/	Inflammatory Response
Cancer_	(specify cancer)
Kidney Damage	
Liver Damage	

VI.

	Heart Damage	
	Death	
	✓ Other (specify)	
	Irritation and inflan headaches.	nmation to the nasal passage and airways, skin and eyes;
CAU	SES OF ACTION/DA	AMAGES
9.	in the Master Long	hilips N.V., Plaintiff(s) adopt(s) the following claims asserted Form Complaint for Personal Injuries, Damages and Demand he allegations and prayer for relief with regard thereto, as set
	Count I:	Negligence
	Count II:	Strict Liability: Design Defect
	Count III:	Negligent Design
	Count IV:	Strict Liability: Failure to Warn
	Count V:	Negligent Failure to Warn
	Count VI:	Negligent Recall
	Count VII:	Battery
	Count VIII:	Strict Liability: Manufacturing Defect
	Count IX:	Negligent Manufacturing
	Count X:	Breach of Express Warranty
	Count XI:	Breach of the Implied Warranty of Merchantability
	Count XII:	Breach of the Implied Warranty of Usability
	Count XIII:	Fraud
	✓ Count XIV:	Negligent Misrepresentation

	Count XV:	Negligence Per Se
	Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
	Count XVII:	Unjust Enrichment
	Count XVIII:	Loss of Consortium
	Count XIX:	Survivorship and Wrongful Death
	Count XX:	Medical Monitoring
	Count XXI:	Punitive Damages
	Count XXII:	Other [specify below]
10.	asserted in the Maste Demand for Jury Tria	n America LLC, Plaintiff(s) adopt(s) the following claims er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto
	as set forth therein:	
	✓ Count I:	Negligence
	✓ Count II:	Strict Liability: Design Defect
	✓ Count III:	Negligent Design
	✓ Count IV:	Strict Liability: Failure to Warn
	✓ Count V:	Negligent Failure to Warn
	Count VI:	Negligent Recall
	Count VII:	Battery
	Count VIII:	Strict Liability: Manufacturing Defect
	Count IX:	Negligent Manufacturing

✓ Count X:	Breach of Express Warranty
✓ Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
✓ Count XIII:	Fraud
✓ Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
✓ Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
✓ Count XVII:	Unjust Enrichment
✓ Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
✓ Count XX:	Medical Monitoring
✓ Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
asserted in the Maste	orth America LLC, Plaintiff(s) adopt(s) the following claims or Long Form Complaint for Personal Injuries, Damages and l, and the allegations and prayer for relief with regard thereto
✓ Count I:	Negligence
✓ Count II:	Strict Liability: Design Defect
✓ Count III:	Negligent Design
✓ Count IV:	Strict Liability: Failure to Warn

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Count V:	Negligent Failure to Warn
✓ Count VI:	Negligent Recall
Count VII:	Battery
✓ Count VIII:	Strict Liability: Manufacturing Defect
✓ Count IX:	Negligent Manufacturing
✓ Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
✓ Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
✓ Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
✓ Count XX:	Medical Monitoring
✓ Count XXI:	Punitive Damages
Count XXII:	Other [specify below]

12.

As to Philips Holding USA Inc., Plaintiff(s) adopt(s) the following claims asserted

	Form Complaint for Personal Injuries, Damages and Demand he allegations and prayer for relief with regard thereto, as set
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring

✓ Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
As to Dhiling DC 1	North Amorica Halding Composition Plaintiff(a) adout(a) the
following claims as	North America Holding Corporation, Plaintiff(s) adopt(s) the serted in the Master Long Form Complaint for Personal Injuries, and for Jury Trial, and the allegations and prayer for relief with et forth therein:
✓ Count I:	Negligence
✓ Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
✓ Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se

Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
As to Polymer Te	echnologies. Inc. Plaintiff(s) adopt(s) the following claims
asserted in the Mas	ter Long Form Complaint for Personal Injuries, Damages and
asserted in the Mas Demand for Jury Tr as set forth therein: Count I:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto
asserted in the Mas Demand for Jury Tr as set forth therein:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence
asserted in the Mas Demand for Jury Tr as set forth therein: Count I: Count II:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence Strict Liability: Design Defect
asserted in the Mas Demand for Jury Tr as set forth therein: Count I: Count II: Count III:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence Strict Liability: Design Defect Negligent Design
asserted in the Mas Demand for Jury Tr as set forth therein: Count I: Count II: Count III: Count IV:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence Strict Liability: Design Defect Negligent Design Strict Liability: Failure to Warn
asserted in the Mas Demand for Jury Tr as set forth therein: Count I: Count II: Count III: Count IV: Count IV:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence Strict Liability: Design Defect Negligent Design Strict Liability: Failure to Warn Negligent Failure to Warn
asserted in the Mas Demand for Jury Tr as set forth therein: Count I: Count II: Count III: Count IV: Count V: Count VIII:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence Strict Liability: Design Defect Negligent Design Strict Liability: Failure to Warn Negligent Failure to Warn Strict Liability: Manufacturing Defect
asserted in the Mas Demand for Jury Tr as set forth therein: Count I: Count II: Count III: Count IV: Count V: Count VIII: Count IX:	Strict Liability: Design Defect Negligent Design Strict Liability: Failure to Warn Negligent Failure to Warn Strict Liability: Manufacturing Defect Negligent Manufacturing
asserted in the Mas Demand for Jury Tr as set forth therein: Count II: Count III: Count IV: Count IV: Count V: Count VIII: Count IX: Count IX:	ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto Negligence Strict Liability: Design Defect Negligent Design Strict Liability: Failure to Warn Negligent Failure to Warn Strict Liability: Manufacturing Defect Negligent Manufacturing Fraud

✓ Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
✓ Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
asserted in the Mast	ded Products LLC, Plaintiff(s) adopt(s) the following claims er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring

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Complaint for Person	Other [specify below]
Complaint for Person	
Complaint for Person	
Plaintiff(s) assert(s)	against the Defendants identified in the Master Long Formal Injuries, Damages and Demand for Jury Trial are allegal facts, if any, supporting these allegations must be plead the following additional factual allegations against and in the Master Long Form Complaint for Personal Injuring for Jury Trial:
Plaintiff(s) contand	(s) that additional parties may be liable or responsible
Plaintiff(s)' damages	(s) that additional parties may be liable or responsible s alleged herein. Such additional parties, who will be hereafendants, are as follows (must name each Defendant and

other Defendants named in Paragraph 16 above:	C	0

Plaintiff(s) assert(s) the following additional claims and factual allegations against

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date:	December	22,	2022	

18.

By: /s/ Robert C. Hilliard

Respectfully Submitted,

Robert C. Hilliard Federal Bar No. 5912 bobh@hmglawfirm.com Marion Reilly Federal Bar No. 1357491 marion@hmglawfirm.com

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• Steve W. Berman (Pro Hac Vice Forthcoming)
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